

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3464 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? :

PUSPABEN M THAKKER

Versus

STATE OF GUJARAT

Appearance:

MR PH PATHAK for Petitioners
MR DESAI, AGP, for Respondent No. 1, 3
MR JITENDRA M PATEL for Respondent No. 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 24/03/2000

ORAL JUDGEMENT

The petitioners were employed by Memdabad Gram
Panchayat in the post of Social Worker (Female) as per
the order dated 4.1.1992. The petitioners' services were

terminated in the year 1983. That order was challenged before this Court by way of filing Special Civil Application No.3231 of 1985 and the ad interim relief was granted in favour of the petitioners. The petitioners ultimately succeeded before the Development Commissioner. The petitioners came to be continued in service in view of the interim protection granted by the authorities during the pendency of the appeal/revision. Thereafter the services of the petitioners came to be terminated by order dated 6.5.1985 on the ground that appointment in the year 1982 as a Field Worker was not in accordance with staff pattern for family planning centre. Petitioner No. 1 filed Special Civil Application No.3231 of 1985 challenging the termination of service. The petition came to be dismissed by this Court on 29.7.1999 on the ground that the post of Social Worker (Female) was not available on the set up of the Nagar Panchayat.

2 The present petition was filed in the year 1988 for claiming the salary for the period from February 1988 onwards. It is contended that although the petitioners had rendered services to the respondents, they were not paid salaries from February 1988.

3 As stated above, during the pendency of the present petition, Special Civil Application No.3231 of 1985 came to be dismissed by this Court on 29.7.1999 and the termination of the petitioners' services was upheld.

4 In response to the notice issued by this Court, affidavit-in-reply came to be filed on behalf of Mehammadabad Nagarpanchayat on 3.2.1989 stating that the family planning centre was run by the State Government through the nagarpanchayat and that since 1984-85 the Government had stopped giving grant to family planning centre and therefore the nagarpanchayat is not responsible to pay the petitioner any salary after termination of her services. The Medical Officer, Mehammedabad Nagarpanchayat has also filed an affidavit to the effect that Mehmeddabad Nagarpanchayat is not taking any work from the petitioner.

5 At the hearing of this petition, Mr J.M. Patel, learned counsel for the respondent - panchayat submits that petitioners had filed similar application before the authority under the Payment of Wages Authority and Labour Commissioner and the said authority rejected the application for arrears of salary. It is further submitted that when the petitioners' services were terminated in the year 1985 the petitioners were not entitled to any salary and therefore also the petition is

misconceived. Even otherwise since the petitioners' claim has been dismissed by the Payment of Wages Authority and Labour Commissioner, the petition is liable to be dismissed.

6. Having heard the learned counsel for the parties, it is apparent that there is a highly disputed question of fact as to whether the petitioners were required to render any service to the Nagar Panchayat after termination of their services in the year 1985. In view of the fact that the petitioners had earlier filed Civil Misc. Application No.134 of 1989 before the authority under the Payment of Wages Act, it would be just and proper to revive the said application and restore the same before the authority under the Payment of Wages Act and to direct the said authority to decide the said application at the earliest.

7. The petition is accordingly disposed of with a direction to the authorities under the Payment of Wages Act to treat Civil Misc. Application No.134 of 1989 as pending and to decide the same in accordance with law after giving all the affected parties an opportunity of being heard. The authority under the Payment of Wages Act shall decide the said application as expeditiously as possible and in any case within four months from the date of receipt of a certified copy of this order.

8. It is clarified that this order is confined to Smt. Pushpaben Thakkar. As regards as petitioner no.2 Vinayak Keshavlal Joshi, no orders are being passed since he has already expired during pendency of this petition.

9. The petition is accordingly disposed of in terms of the aforesaid direction. Rule is discharged. There shall be no order as to costs.

(M.S. Shah, J.)

(mohd)